

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

COY PHELPS,

Plaintiff,

v.

DAVID WINN, et al.

Defendants.

Civ. No. 05-CV-40003-GAO

**DEFENDANTS' MOTION FOR EXTENSION OF TIME TO ANSWER OR
OTHERWISE RESPOND TO THE COMPLAINT
PENDING THE RESOLUTION OF DEFENDANTS' MOTION**

Defendants David Winn, B. Potolicchio, and H. Haas (collectively, the "Defendants"), through their undersigned counsel, hereby move to extend their time to answer or otherwise respond to the Complaint in this action pending the resolution of Defendants' Motion for a More Definite Statement ("Defendants' Motion"). The Defendants' Answer in this case would have been due on November 13, 2007. However, on November 2, 2007, because the Complaint was in such a form that the Defendants were not able to reasonably answer, Defendants filed Defendants' Motion, which is still pending before the Court.

WHEREFORE, for all of the foregoing reasons, Defendants respectfully request the following relief: (1) if the Court grants Defendants' Motion, the Defendants request at least twenty (20) days from the date that the Plaintiff files a more definite statement to file an answer or otherwise respond to the Complaint; or (2) if the Court does not grant the Defendants' motion, the Defendants request at least twenty (20) days from the date of the Court's Order to file an answer or otherwise respond to the Complaint.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Sonya A. Rao
SONYA A. RAO
Assistant U.S. Attorney
John J. Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

Date: November 13, 2007

CERTIFICATE PURSUANT TO LR. 7.1(A)(2)

The Defendants take the position that, because LR. 7.1(A)(2) requires “counsel” to confer, the Rule is inapplicable where, as here, Plaintiff is proceeding pro se and is incarcerated. To the extent the Court considers the Rule applicable, the undersigned requests that it be waived here.

By: /s/ Sonya A. Rao
SONYA A. RAO
Assistant U.S. Attorney
John J. Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3100

Date: November 13, 2007

CERTIFICATE OF SERVICE

I certify that, on November 13, 2007, I caused a copy of the foregoing **DEFENDANTS’ MOTION FOR EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO THE COMPLAINT PENDING THE RESOLUTION OF DEFENDANTS’ MOTION** to be served, via first class mail, postage pre-paid, on the following pro se Plaintiff:

Coy Phelps, #78872-011
FMC Devens
P. O. Box 879
Ayer, Massachusetts 01432.

By: /s/ Sonya A. Rao
SONYA A. RAO
Assistant U.S. Attorney
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